Supreme Court, U. S.
F I L E D
MAY 26 1976
MICHAEL RODAK, JR., CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
October Term 197_
NO. 75-1714

HARPER SIBLEY, JR.

vs.

THE SUPERIOR COURT OF LOS ANGELES COUNTY

CARLSBERG MOBILE HOME PROPERTIES, LTD. -'72,

(real party in interest), Petitioner

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CALIFORNIA

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CARLSBERG MOBILE HOME PROPERTIES, LTD. -'72, (real party in interest), Petitioner

PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT
OF THE STATE OF CALIFORNIA

The Petitioner, Carlsberg Mobile Home Properties, Ltd. -'72, prays that a Writ of Certiorari issue to review the opinion and judgment of the Supreme Court of the State of California rendered (by a 5 to 2 majority) on March 8, 1976.

The issue is: "can a non-resident of California, who signs an agreement out of the state which causes the formation of a California Limited Partnership, constitutionally with impunity avoid the

jurisdiction of the California courts?"

OPINION BELOW

The Opinion of the Supreme Court of California is reported at 16 *Cal.*3d 442, and is attached hereto as Appendix A.

JURISDICTION

The Judgment of the Supreme Court of California was entered on March 8, 1976 (*See* Appendix A, page 1 *infra*). A petition for rehearing was denied on April 7, 1976 (*See* Appendix B *infra*). This Petition for Certiorari was filed less than 90 days from the date of the judgment aforesaid. The jurisdiction of this court is invoked under 28 *U.S.C.* §1257(3).

QUESTION PRESENTED

Real party in interest, Petitioner herein, brought suit against Harper Sibley, Jr. (hereinafter "Sibley") on his personal guarantee of certain obligations of a California Limited Partnership. Sibley brought a Motion to Quash Service of Summons and Complaint upon him on the basis that the courts of the State of California lacked jurisdiction over him. This contention was overruled by the trial court and by the California District Court of Appeal; however,

their rulings were overturned by the Supreme Court of the State of California (the Court dividing 5 Justices to 2). The question presented is:

Whether California courts may constitutionally assert jurisdiction over a non-resident individual solely by reason of his execution and alleged breach of a guaranty agreement of the obligations of a California Limited Partnership, which guaranty was a condition precedent to the formation of such partnership, and whether the non-resident guarantor, by executing such guaranty and causing it to be delivered to the real party in interest in California, thereby had sufficient contacts with the State of California so that the rendition of a judgment against him would not violate the due process clause of the 14th Amendment to the *U.S. Constitution*, Article IV, Section 1.

STATEMENT OF FACTS

The real party in interest, Petitioner, Carlsberg Mobile Home Properties, Ltd. -'72, (hereinafter "Carlsberg") is a Limited Partnership having its principal place of business in California. In December, 1973, MTA-CMHPL, Ltd. (hereinafter "MTA"), a California Limited Partnership, was formed

in California. The General Partner of MTA is Sunrise Lakes, Inc. (hereinafter "Sunrise"), a Georgia corporation, the limited partner was Carlsberg. MTA was to operate two mobile home parks in Georgia. Under the MTA California Limited Partnership Agreement, Sunrise promised to make certain monthly payments to Carlsberg in California. Sibley, a Florida resident, was one of three guarantors of Sunrise's performance of the California MTA's Limited Partnership Agreement. It can be demonstrated that, but for the execution of the Agreement by Sibley, and the delivery of that guaranty to Carlsberg in California, the California Limited Partnership would never have been formed. Sibley was not a party to the MTA California Limited Partnership negotiations. His only connection with the transaction apparent from the record was that he was a guarantor of the performance of the General Partner to the California Limited Partnership which would have not been formed but for his guaranty. Petitioner signed the Guaranty Agreement in Florida and delivered it to another Defendant, Peter Thun, to take it to California to deliver to Carlsberg so that the transaction would close. The MTA Agreement was negotiated

and executed in California. Sibley is not a resident of California, does not own any real or personal property in California, and does not have any business interests in California.

REASONS FOR GRANTING THE WRIT OF CERTIORARI

This case raises questions important not only to California, but to all other states which have similar laws regarding jurisdiction (so-called "long arm statutes"). The true question is, are there sufficient contacts with California so it can constitutionally exercise jurisdiction over a non-resident who has caused an effect in this state by an act done elsewhere. The sufficiency of such contacts is a matter of Constitutional Law on which the Supreme Court of the United States has the final voice.

California Code of Civil Procedure Section 410.10 provides: "A court of the state may exercise jurisdiction on any basis non inconsistent with the Constitution of this state or of the United States." One of the bases of jurisdiction under this statute is that an individual may subject himself to jurisdiction of the State of California by causing an effect in the state by an act or omission done elsewhere (*See* Appendix C *infra*). It is submitted that, but for the

act of Sibley signing the guaranty and causing it to be delivered to Carlsberg in California, the California Limited Partnership would never have been formed.

Judicial jurisdiction in its broadest sense is the power of a state through any of its courts or, on occasion, through its legislative, executive or administrative bodies, to create legal interests which will be recognized and enforced in all the states. Within a state's boundaries, this power is plenary, except as may be delegated to the Federal Government by the Constitution of the United States. *Pennoyer v. Neff*, (1877) 95 U.S. 714, 722, 24 L.ed. 565. Outside the state, such power is limited to instances in which a Defendant has sufficient minimum contacts with the state that the maintenance of the suit does not offend traditional notions of fair play and substantial justice. *International Shoe Co. v. Washington* (1945) 326 U.S. 310, 316, 66 S.Ct. 154, 90 L.ed. 95. Each state has its own requirements in this regard. These requirements are usually set forth in each state's service of process statutes, and are often more stringent than those imposed by the due process clause of the United States Constitution. *Milliken v. Meyer*, (1940) 311 U.S. 457, 61 S.Ct. 339, 85 L.ed.

278. In *International Shoe Co. v. Washington*, supra, the Court decided that due process requires only that, in order to subject a Defendant to a Judgment *In Personam* if he be not present within the territory of the forum, he has had sufficient minimum contacts with the forum state so that the maintenance of the suit does not offend traditional notions of fair play and substantial justice. *Id.* at 316.

A state has power to exercise judicial jurisdiction over an individual who causes effects in the state by an omission or an act done elsewhere, with respect to causes of actions arising from these effects, unless the nature of the effects and of the individual's relationship to the state make the exercise of such jurisdiction unreasonable. *Hansen v. Denckla*, (1958) 357 U.S. 235, 78 S.Ct. 1228, 2 L.ed.2d 1283; *McGee v. International Life Insurance Co.*, (1957) 335 U.S. 220, 78 S.Ct. 199, 2 L.ed.2d 223. When jurisdiction over an individual is based solely upon such act or omission, only a claim for relief arising from such act or omission may be asserted against the individual. *Ibid.* As stated in *Restatement of Conflict of Laws 2d*, Section 37 Comment a:

"A state has a natural interest in the effects of an act within its territory even though the act itself was done elsewhere. The state may exercise judicial jurisdiction on the basis of such effects over the individual who did the act, or who caused the act to be done, provided that the nature of these effects and of the individual's relationship to the state are such as to make the exercise of jurisdiction fair to the individual and reasonable from the standpoint of the international and interstate systems . . .

"There are three possible situations: (1) the act was done with the intention of causing effects in the state; (2) the act, although not done with the intention of causing effects in the state, could reasonably have been expected to do so; and (3) the act was not done with the intention of causing effects in the state and could not reasonably have been expected to do so. These three situations will be discussed in the order stated.

"The act may have been done with the intention of causing effects in the state. If so, the state may exercise the same judicial jurisdiction over the actor, or over the one who caused the act to be done, as to causes of action arising from these effects as it could have exercised if these effects

had resulted from an act done within its territory. . . ."

Here the act in question is the signing by Sibley of the guaranty of the performance of the General Partner to a California Limited Partnership and the transportation of that guaranty to California. But for the signing of the guaranty, and the delivery thereof to Carlsberg in California, the California Limited Partnership would not have been formed. It is conceded that Sibley has never been to California, and, other than some isolated instances which have no relation to the facts in the case at bar, Sibley has no other contacts with California.

The question then arises, is the fact of Sibley's signing of the guaranty in Florida and sending it to California -- which act caused the formation of the California Limited Partnership to operate two mobile home parks in Georgia -- sufficient to give the California court jurisdiction over Sibley. A trend is clearly discernable toward expanding the permissible scope of state jurisdiction over non-residents. In part, this is attributable to the fundamental

transformation of our national economy over the years. Today, many commercial transactions touch two or more states and may involve parties separated by the full continent. With this increasing nationalization of commerce has come a great increase in the amount of business conducted across state lines. At the same time, modern transportation and communication have made it much less burdensome for a party sued to defend himself in the state where he either engages in economic activity or affects the conduct of others. Although Sibley has never been to California, this is a classic case of an act which was done outside the state of California with the express purpose of causing an act within the state and, therefore, comes within the provisions of *McGee v. International Life Insurance Company*, supra. The California Supreme Court erred when it substituted economic activity and doing business tests as the basis for jurisdiction, as the nature of Sibley's action was merely as a guarantor of the obligations of the California Limited Partnership, MTA, and a guarantor's relationship to a transaction is essentially passive. Therefore, if the principals are subject to the jurisdiction

of the California courts, as they are here, and the only party to the transaction who is not subject to California jurisdiction is Sibley, a multiplicity of suits will necessarily be incurred. This is so because the principals are not amendable to the jurisdiction of the Florida courts, where Sibley must be sued if the California courts do not have jurisdiction over him.

CONCLUSION

For these reasons, a Writ of Certiorari should issue so that the judgment of the California Supreme Court may be reviewed and determined by this court.

Respectfully submitted,

DONALD L. STONE
JOSEPH BESNAH

Counsel for Petitioner

APPENDIX A

SUPREME COURT
FILED
MAR 3 1970
G. E. BISHEL, Clerk

Deputy

COPY

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

HARPER SIBLEY, JR., Petitioner, v. THE SUPERIOR COURT OF LOS ANGELES COUNTY, Respondent; CARLSBERG MOBILE HOME PROPERTIES LTD. - '72, Real Party in Interest.	L.A. 30496 (Super. Ct. No. WEC 36291)

This case presents the question whether California courts may constitutionally assert jurisdiction over a nonresident individual solely by reason of his execution and alleged breach of a guaranty agreement regarding payment of monies owing to a California corporation. We have concluded that, under the circumstances in the present case, the guaranty transaction was not a sufficient basis on which to sustain personal jurisdiction over the nonresident guarantor, and that accordingly his motion to quash service of summons should have been granted.

"SEE DISSENTING OPINION"

The real party in interest herein, Carlsberg Mobile Home Properties, Ltd. - '72 (hereafter Carlsberg) is a limited partnership having its principal place of business in California. In December 1973, Carlsberg formed MTA-CMHPL, LTD. (hereafter MTA), a limited partnership, in California. The general partner of MTA is Sunrise Lakes, Inc. (hereafter Sunrise), a Georgia corporation. The purpose of MTA was to operate two mobile home parks in Georgia. Under the MTA partnership agreement, Sunrise promised to make certain monthly payments to Carlsberg. Petitioner Harper Sibley, a Florida resident, was one of three guarantors of Sunrise's performance of the MTA partnership agreement.

In December 1974, Carlsberg brought an action in California against petitioner and others alleging breach of the partnership agreement by Sunrise and breach of the guaranty by petitioner and others. Petitioner was served by certified mail in Florida, made a special appearance in California, and pursuant to Code of Civil Procedure section 418.10, subdivision (a)(1), moved for an order to quash service of summons for lack of personal jurisdiction. The trial court denied the motion and petitioner seeks mandate to review and set aside the trial court's order.

(See Code Civ. Proc., § 418.10, subd. (c).)

Petitioner contends that Carlsberg has failed to meet its initial burden of showing that petitioner has the requisite minimum contacts with the State of California to justify California's assertion of jurisdiction over him. (See Buckeye Boiler Co. v. Superior Court (1969) 71 Cal.2d 893, 905, fn. 9; Arneson v. Raymond Lee Organization, Inc. (1973) 31 Cal.App.3d 991, 995.) We agree.

Petitioner was not a party to the MTA partnership agreement and took no part in its negotiation. His only connection with the transaction apparent from the record was as guarantor of the performance of a Georgia corporation. Petitioner signed the guaranty agreement in Florida and delivered it to another defendant, Peter Thun, who then took it to California. As indicated, petitioner is a resident of Florida; he has never been a resident of California, does not own any real or personal property in this state, and does not have any business interests or relations with California except as trustee of a testamentary trust owning property in Cambria, California. Sibley has not been physically present in this state since January 1973, when he was here in connection with a matter unrelated to the transactions before us.

Under Code of Civil Procedure section 410.10, a California court may exercise jurisdiction over nonresidents on any basis not inconsistent with the United States or California Constitutions. This section manifests an intent to exercise the broadest possible jurisdiction, limited only by constitutional considerations. (Buckeye Boiler Co. v. Superior Court, supra, 71 Cal.2d 893 at p. 898; Quattrone v. Superior Court (1975) 44 Cal.App.3d 296, 302.) As a general constitutional principle, a court may exercise personal jurisdiction over a nonresident individual so long as he has such minimal contacts with the state that ". . . the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" (International Shoe Co. v. Washington (1945) 326 U.S. 310, 316-317, citations omitted; Cornelison v. Chaney, ante, p. 143.)

One of the recognized bases for jurisdiction in California arises when the defendant has caused an "effect" in the state by an act or omission which occurs elsewhere. (Quattrone v. Superior Court, supra, 44 Cal. App.3d 296 at p. 303; see also McGee v. International Life Ins. Co. (1957) 355 U.S. 220.) This ground for assertion of jurisdiction is discussed by the Judicial Council in its comment to section 410.10 of the Code of Civil

Procedure reprinted in West's Annotated California Codes, page 472, in the following language: "A state has power to exercise judicial jurisdiction over an individual who causes effects in the state by an omission or act done elsewhere with respect to causes of action arising from these effects, unless the nature of the effects and of the individual's relationship to the state make the exercise of such jurisdiction unreasonable. [Citations.] When jurisdiction over an individual is based solely upon such act or omission, only a claim for relief arising from such act or omission may be asserted against the individual. [Citation.]" (Italics added.)

Evidence was presented at the hearing on petitioner's motion to quash that the guaranty which petitioner executed induced Carlsberg, a California corporation, to enter into MTA, a new California limited partnership, and that Carlsberg would not have performed the MTA agreement without petitioner's guaranty. On this basis, despite petitioner's contrary assertions, the trial court could reasonably infer that the signing of the guaranty in Florida both was intended to cause and did cause an effect in California. In addition, it appears that the performance guaranteed by petitioner was the payment of certain moneys to a partnership located in California; thus, petitioner could have anticipated that the failure of this performance would have a further effect in California.

The mere causing of an "effect" in California, however, as acknowledged in the Judicial Council comment quoted above, is not necessarily sufficient to afford a constitutional basis for jurisdiction; notwithstanding this "effect," the imposition of jurisdiction may be "unreasonable." As was held in International Shoe Co. v. Washington, supra, 326 U.S. 310, a suit may not be maintained where jurisdiction offends "'traditional notions of fair play and substantial justice.'" (Id., at pp. 316-317, citations omitted.)

Subsequent to International Shoe, the federal Supreme Court has amplified the standard by which to determine whether imposition of jurisdiction is constitutionally "unreasonable." In Hanson v. Denckla (1958) 357 U.S. 235, for example, the high court held that in those cases in which jurisdiction is sought on the basis of defendant's occasional activities, ". . . it is essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws." (Id., at p. 253.) In Buckeye Boiler, supra, we reaffirmed the necessity for such an inquiry and asked the additional question whether, considering defendant's activity, extension of jurisdiction over him would be "fair."

In the present case, the record fails to disclose that petitioner purposefully availed himself of the privilege of conducting business in California

or of the benefits and protections of California laws. Likewise, the record does not indicate that petitioner anticipated that he would derive any economic benefit as a result of his guaranty. Although petitioner may have reasonably foreseen that his execution or breach of the guaranty agreement would have some impact in this state, it does not appear that plaintiff Carlsberg assumed any obligations to petitioner which he might have sought to enforce in California. In this regard, petitioner's contacts with California seem even more minimal than those present in Belmont Industries, Inc. v. Superior Court (1973) 31 Cal.App.3d 281 (hg. den.), in which jurisdiction was found to be unreasonable; unlike the present case, in Belmont, the nonresident defendant, which had negotiated and contracted with a California corporation for the purchase of certain drafting services, could have sought to enforce its contract in the California courts.

The present case is distinguishable from those recent California cases upholding jurisdiction over nonresident defendants who seek or obtain significant benefits from this activity in California. For example, in Buckeye Boiler Co. v. Superior Court, supra, substantial business was generated in this

state which benefited the party over which jurisdiction was sought; in Michigan Nat. Bank v. Superior Court (1972) 23 Cal.App.3d 1, goods purchased in California were financed by the nonresident defendant; in National Life of Florida Corp. v. Superior Court (1971) 21 Cal.App.3d 281, contract negotiatons by the parties occurred in California concerning the sale of shares of stock to California residents by the nonresident defendants; and in Quattrone v. Superior Court, supra, 44 Cal.App.3d 296, it was alleged that the nonresident defendant was involved in a conspiracy to defraud a California corporation for his own profit by submitting falsified financial records to this corporation. By contrast, in the present case, while other parties involved in this action had considerable contacts with California, there is no indication that petitioner intended to conduct business or in any other way directly or indirectly gain from dealings in this state; the purpose of other parties cannot be imputed to petitioner for the purpose of assuming personal jurisdiction over him.

The United States Supreme Court has given further guidance in this area by indicating in McGee v. International Life Ins. Co., supra, 355 U.S. 220, that whether or not a state has passed special legislation relating to the subject matter of the action is significant in determining the reasonableness of jurisdiction over an out-of-state defendant. In McGee, the court

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uphald the jurisdiction of a California court over an out-of-state insurance company, justifying its ruling in part on the fact that California had enacted special legislation manifesting an exceptional interest in regulating activities by foreign insurance companies. (Id., at pp. 221-223.) Similarly in Quattrone v. Superior Court, supra, 44 Cal.App.3d 296, jurisdiction over a nonresident defendant was upheld by a Court of Appeal of this state largely because the end result of defendant's alleged conspiratorial conduct was the issuance of shares of stock, a subject of special California regulation. (Id., at pp. 306-307.)

In the matter before us a California limited partnership, in reliance upon the personal guaranty by a Florida resident, contributed its holdings of Georgia land to a new limited partnership for the purpose of acquiring and operating mobile home parks in Georgia. There are no aspects of this arms-length transaction which are subject to special regulation in California or in which California has otherwise manifested exceptional interest.

Thus, we conclude that petitioner's relationship to California, and the effects thereby caused in California, make the exercise of jurisdiction unreasonable in the present case.

Because petitioner's contacts with California are insufficient to justify jurisdiction, it is not

necessary to undertake the additional process of balancing the inconvenience of defending the action in this state against the interests of plaintiff in suing locally and of the state in assuming jurisdiction. (See Cornelison v. Chaney, supra, pp. 150-151; Buckeye Boiler Co. v. Superior Court, supra, 71 Cal.2d 893 at p. 899.)

We note, however, that the present litigation involves the performance of a limited partnership agreement in Georgia, and of petitioner's own agreement to guarantee the performance of a Georgia corporation. Thus, Georgia would appear to have jurisdiction over the entire controversy; at the least, the action against petitioner can be conveniently litigated there or in Florida where petitioner resides.

Let a peremptory writ of mandate issue.

RICHARDSON, J.

WE CONCUR:

WRIGHT, C.J.
McCOMB, J.
SULLIVAN, J.
CLARK, J.

C O P Y

SIBLEY v. SUPERIOR COURT OF LOS ANGELES

L.A. 30496

DISSENTING OPINION BY MOSK, J.

I dissent.

The issue is whether petitioner has the requisite minimum contacts with the State of California to justify California courts exercising jurisdiction over him. (Buckeye Boiler Co. v. Superior Court (1969) 71 Cal.2d 893, 905, fn. 9.)

In denying petitioner's motion to quash, the trial court relied upon the following facts to justify retaining the case in California, rather than to compel the litigants to travel across the continent to the eastern seaboard for an adjudication of their rights. (Tiffany Records, Inc. v. H. B. Krupp Distributors, Inc. (1969) 276 Cal.App.2d 610, 615.)

Carlsberg Mobile Home Properties, Ltd.-'72 is a limited partnership formed in California pursuant to the provisions of the California Corporations Code.

The general partner of the limited partnership is Carlsberg Resources Corporation, a California corporation.

Both the limited partnership and the corporate general partner maintain their business and principal office

in the County of Los Angeles, State of California. Neither entity maintains an office in any other state.

Carlsberg, pursuant to an agreement, formed a limited partnership with Sunrise Lakes, Inc., a Georgia corporation as the general partner, to acquire and operate two mobile home parks in Georgia. This entity, known in short as MTA, was created in California, in accordance with provisions of the California Corporations Code.

The agreement upon which the lawsuit is based was negotiated and executed in California.

The deeds transferring to MTA title to the Georgia mobile home parks were executed in California.

The agreement contemplated that payments thereunder were to be made in California.

The guarantee of petitioner was an essential consideration without which the MTA agreement would not have been executed in California.

Petitioner had knowledge that he was guaranteeing an obligation executed in California and payable in California, for the written guarantee of petitioner was obtained by, and given to, codefendant Peter Thun for delivery to plaintiffs in California.

The guarantee was in fact delivered to plaintiffs in California.

The transaction became effective only upon delivery of the guarantee in California. This is precisely the type of act, originally performed elsewhere but causing a specific effect in California, contemplated by Quattrone v. Superior Court (1975) 44 Cal.App.3d 296, 303.

This litigation results from the claim that the general partner, and consequently its guarantor, has breached the terms of the MTA limited partnership agreement executed in California.

The foregoing facts--singly perhaps but in combination certainly--constitute substantially more than the minimum contacts required for jurisdiction over the parties by California courts. The trial court so found. A unanimous Court of Appeal approved. I agree with their assessment of the facts.

I would deny the writ.

MOSK, J.

I CONCUR:

TOBRINER, J.

APPENDIX B

CLERK'S OFFICE, SUPREME COURT
4250 STATE BUILDING

SAN FRANCISCO, CALIFORNIA 94102

APR 7 1976

I have this day filed Order

REHEARING DENIED

In re: LA No. 30496
Sibley
vs.
Superior Court, LA

Respectfully,

G. E. BISHEL
Clerk

99328-877 11-75 3M CSP

APPENDIX C

EXCERPTS FROM

1969 REPORT OF THE CALIFORNIA

JUDICIAL COUNCIL TO THE GOVERNOR

AND THE LEGISLATURE

Code of Civil Procedure §410.10 provides:

A court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States.

APPROVED JUDICIAL COUNCIL COMMENT

Superseded CCP Sections: §§ 411–413, 417.

Section 410.10 permits California courts to exercise judicial jurisdiction on any basis not inconsistent with the state or federal Constitutions. This authorization continues the California law on jurisdiction over foreign corporations and reestablishes the prior law that once governed nonresident individuals.

All the recognized bases of judicial jurisdiction are included. In the case of natural persons, such bases currently include presence, domicil, residence, citizenship, consent, appearance, doing business in a state, doing an act in a state, causing an effect in a state by an act or omission elsewhere, ownership, use or possession of a thing in a state, as well as other relationships to a state.

In the case of corporations and unincorporated associations (including partnerships), such bases currently include incorporation or organization in a state, consent, appointment of an agent, appearance, doing business in a state, doing an act in a state, causing an effect in a state by an act or omission elsewhere, ownership, use or possession of a thing in a state, and other relationships to a state. Each of these bases is discussed in detail below.

Other recognized bases include: (1) Judicial jurisdiction over the interests of persons in things in this state, such as land, chattels, documents, intangibles, shares in a corporation, and titles. (2) Judicial jurisdiction to apply to the satisfaction of a claim interests in a thing that is subject to the court's judicial jurisdiction. (3) Judicial jurisdiction for divorce of persons one or both of whom are domiciled in this state or have such other relationship to this state as would make it reasonable for the state to dissolve their marriage. (4) Judicial jurisdiction over other proceedings relating to status, such as judicial separation, annulment, support, adoption, or custody, of persons who are domiciled or present in this state, or have such other relationship to this state as would make it reasonable for the state to hear and determine such action. . . .

BASES OF JUDICIAL JURISDICTION OVER INDIVIDUALS

A state has power to exercise judicial jurisdiction over an individual on one or more of the following bases: (1) Presence; (2) Domicil; (3) Residence; (4) Nationality or citizenship; (5) Consent; (6) Appearance in an action; (7) Doing business in the state; (8) An act done in the state; (9) Causing an effect in the state by an act done elsewhere; (10) Ownership, use or possession of a thing in the state; (11) Other relationships to the state which make the exercise of judicial jurisdiction reasonable. (RESTATEMENT (SECOND), § 27; *see* UNIFORM INTERSTATE AND INTERNATIONAL PROCEDURE ACT §§ 1.02, 1.03 (hereinafter cited as UNIFORM ACT); 44 Cal.L.Rev. 737; 48 Cal.L.Rev. 295; Von Mehren and Trautman, *Jurisdiction to Adjudicate: A Suggested Analysis* (1966) 79 Harv.L.Rev. 1121; *Developments in the Law—State-Court Jurisdiction* (1960) 73 Harv. L.Rev. 909; 5 Hastings L.J. 191; 27 So.Cal.L.Rev. 465; 1 U.C.L.A. L.Rev. 113.)...

(9) CAUSING EFFECT IN STATE BY ACT OR OMISSION ELSEWHERE

A state has power to exercise judicial jurisdiction over an individual who causes effects in the state by an omission or act done elsewhere with respect to causes of action arising from these effects, unless the nature of the effects and of the individual's relationship to the state make the exercise of such jurisdiction unreasonable. (*Hanson v. Denckla* (1958) 357 U.S. 235; *McGee v. International Life Ins. Co.* (1957) 355 U.S. 220, 78 S.Ct. 199, 2 L.Ed.2d 223; *Dahlberg Co. v. Western Hearing Aid Center, Ltd.* (1961) 259 Minn. 330, 107 N.W.2d 381, *cert. den.* 366 U.S. 961; *Stephensen v. Duriron Co.* (Alaska 1965) 401 P.2d 423, *cert. den.* 382 U.S. 956; *cf. Travelers Health Assn. v. Virginia* (1950) 339 U.S. 643, 705 S.Ct. 927; *Jeter v. Austin Trailer Equip. Co.* (1953) 122 Cal.App.2d 376, 381, 265 P.2d 130; *see* RESTATEMENT (SECOND), § 37; UNIFORM ACT § 1.03(4) ("causing tortious injury in this state by an act or omission outside this state if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in this state"), (6) ("contracting to insure any person, property, or risk located within this state at the time of contracting"); *Jurisdiction: Current Problems and Legislative Trends* (1959) 44 Iowa L.Rev. 247; *Diverse Systems and Principles of Jurisdiction* (1959) 53 Am.Soc.Int. L.Proc. 170; *Transient Jurisdiction—Remnant of Pennoyer v. Neff* (1960) 9 J.Pub.Law 281; Scott, *Hanson v. Denckla* (1959) 72 Harv.L.Rev. 695.) When jurisdiction over an individual is based solely upon such act or omission, only a claim for relief arising from such act or omission may be asserted against the individual. *(Ibid.)*

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As stated in RESTATEMENT (SECOND), § 37, Comment *a*:

> **A state has a natural interest in the effects of an act within its territory even though the act itself was done elsewhere. The state may exercise judicial jurisdiction on the basis of such effects over the individual who did the act, or who caused the act to be done, provided that the nature of these effects and of the individual's relationship to the state are such as to make the exercise of jurisdiction fair to the individual and reasonable from the standpoint of the international and interstate systems. . . .**
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> **There are three possible situations: (1) the act was done with the intention of causing effects in the state; (2) the act, although not done with the intention of causing effects in the state, could reasonably have been expected to do so; and (3) the act was not done with the intention of causing effects in the state and could not reasonably have been expected to do so. These three situations will be discussed in the order stated.**
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> **The act may have been done with the intention of causing effects in the state. If so, the state may exercise the same judicial jurisdiction over the actor, or over the one who caused the act to be done, as to causes of action arising from these effects as it could have exercised if these effects had resulted from an act done within its territory. . . . So one who intentionally shoots a bullet into a state is as subject to the judicial jurisdiction of the state as to causes of action arising from the effects of the shot as if he had actually fired the bullet in the state. Similarly, an insurance company which solicits through the mails the purchase of an insurance policy and thereafter mails the insured premium notices and the like is as subject to the judicial jurisdiction of the state as to causes of action arising from the policy as if it had sent an agent into the state to solicit the policy and to present the premium notices to the insured.** [*McGee v. International Life Insurance Co., supra*; *cf. Travelers Health Association v. Virginia, supra.*]
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> **The act may not have been done with the intention of causing effects in the state but could reasonably have been expected to do so. Whether the state may exercise judicial jurisdiction in such a situation depends upon a variety of factors, including the extent of the relationship of the state to the defendant and to the plaintiff, the**

> nature and quality of the effects resulting from the act, and the degree of inconvenience which would result to the defendant from being forced to stand suit in the state on the particular cause of action. The greater the defendant's relationship to the state, the greater is the likelihood that the state may exercise judicial jurisdiction over him as to causes of action arising from the effects of the act in the state. . . . So if the defendant does business in the state, or solicits business extensively in the state, or if a substantial quantity of goods manufactured by him are sold in the state, there is a greater likelihood that the state may exercise judicial jurisdiction over him as to causes of action arising from the effects in the state of an act done by him outside the state than if the defendant did not have this relationship to the state. This is so even though the defendant's relationship to the state is not related in any way to the act or to such of its effects i . the state as are involved in the suit. The plaintiff's relationship to the state is also material. The greater is the extent of this relationship, the greater is the interest of the state in the plaintiff and consequently the more appropriate it will be that the state should be in the position to try the case in its courts. On the other hand, if the plaintiff has little or no relationship to the state, the defendant's relationship to the state must be correspondingly greater to give the state a sufficient interest to justify trial of the case in its courts. Another factor of significance is the nature and quality of the effects which occur in the state. The state may exercise judicial jurisdiction over the defendant if the effects which could have been anticipated and which actually occurred are of a sort highly dangerous to persons or things. . . .
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> Finally, there will be situations where the act was not done with the intention of causing effects in the state and where the defendant had no reason to suppose that his act outside the state would result in effects within the state. In these circumstances the state is unlikely to have judicial jurisdiction over the defendant unless both the plaintiff and the defendant have an extensive relationship to the state. [Citations supplied; *cf. Hanson v. Denckla, supra.*]

Some actions, such as defamation, affect interests of a defendant that are protected by the First Amendment of the United States Constitution. For a state to have judicial jurisdiction over such actions, it may be that the defendant must have a closer relationship to the state, or have caused effects of a more substantial nature in the state, than would otherwise be required. . . .

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